

BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A
JUDGE: CYNTHIA A. HOLLOWAY
NO.: 00-143

Florida Supreme Court
Case No.: SC00-2226

_____/

MOTION FOR PROTECTIVE ORDER

COMES NOW Respondent, the HONORABLE CYNTHIA A. HOLLOWAY, by and through her undersigned counsel, pursuant to Florida Judicial Qualifications Commission Rule 12(a) and Florida Civil Procedure Rule 1.280(c) and files this Motion for Protective Order and in support thereof would show:

1. Respondent's counsel received a Notice of Taking Deposition scheduling Respondent's deposition in this cause for February 15, 2001 at 1:00 p.m.

2. Respondent, through counsel, has twice made Rule 12(b) demands for witness statements from Special Counsel on November 7, 2000 and January 3, 2001.

3. In response to the referenced demands, Special Counsel sent a letter dated January 16, 2001, wherein she acknowledged that the JQC had possession of typed witness interviews conducted by its investigator. However, Special Counsel has refused to provide such witness statements to the Respondent, claiming the requested documents were prepared in anticipation of litigation and thus, protected by the work product doctrine.

4. Contemporaneous herewith, Respondent is filing a Motion

to Compel the production of witness statements for the reasons set forth in said motion.

5. It is manifestly unfair and thus, an annoyance, embarrassment, oppression and undue burden that Respondent's deposition be conducted prior to the determination of Respondent's entitlement to the witness statements pursuant to the Rule 12(b) request made herein.

6. Special Counsel should not be given unfettered access to discovery while contemporaneously denying Respondent access to the information upon which the investigative panel relied in reaching the decision to file formal charges herein.

WHEREFORE and by reason of the foregoing, Respondent respectfully requests this Honorable Court grant the Motion for Protective Order pending the Hearing Panel's decision on the referenced Motion to Compel.

Respectfully submitted,

SCOTT K. TOZIAN, ESQUIRE
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ____ day of _____, 2001, the original of the foregoing Motion for Protective Order has been furnished by U.S. Mail to: Honorable Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927 with copies by U.S. Mail to: Beatrice A.

Butchko, Esquire, Kaye, Rose & Maltzman, LLP, One Biscayne Tower, Suite 2300, 2 South Biscayne Boulevard, Miami, Florida 33131; John Beranek, Esquire, General Counsel, Ausley & McMullen, Washington Square Building, 227 Calhoun Street, P. O. Box 391, Tallahassee, Florida 32302; Honorable James R. Jorgenson, Chair, Hearing Panel, Third District Court of Appeals, 2001 S.W. 117th Avenue, Miami, Florida 33175-1716; and Michael S. Rywant, Esquire, Rywant, Alvarez, Jones, Russo & Guyton, P.A., 109 North Brush Street, Suite 500, P. O. Box 3283, Tampa, Florida 33601.

SCOTT K. TOZIAN, ESQUIRE